statutory period. *Held*, that as the trustee is barred from recovering the property in equity by analogy to the Statute of Limitations, so are the *cestuis que trust* barred, though they were infants or not yet born at the time of the wrongful conveyance. *Willson* v. *Louisville Trust Co.*, 44 S. W. Rep. 121 (Ky.). See NOTES.

TRUSTS — DEDICATION FOR PUBLIC USE — PARTIES. — Land was conveyed by deed to the selectmen of a town for use as a public park only. A bill in equity was brought by the grantor to restrain the erection of a school building upon the lot. *Held*, that such a use is inconsistent with the terms of the trust and the bill will lie. *Rowzee* v. *Pierce*, 23 So. Rep. 307 (Miss.).

If land is dedicated to public use without a deed, it is the general doctrine that the dedicator grants an easement only. He retains the soil for every purpose not inconsistent with the public easement, and may maintain appropriate actions for any encroachment upon it. *St. Mary's* v. *Jacobs*, L. R. 7 Q. B. 53; *Bliss* v. *Ball*, 97 Mass. 597. But when the dedicator parts with the fee it is difficult to see what interest he retains in the land, and as in the case of a charitable trust the Attorney-General would seem to be the proper party to represent the rights of the public. However, as in the principal case, it is generally held that the grantor still has such an interest as to entitle him to enforce the trust as originally declared. *Warren* v. *Lyons City*, 22 Iowa, 351; *Gilman* v. *Milwaukee*, 55 Wis. 328.

REVIEWS.

TOWNSHIP AND BOROUGH; being the Ford Lectures delivered in the University of Oxford, 1897. By Frederic William Maitland, LL. D. Cambridge [Eng.]: University Press. 1898.

In these lectures Professor Maitland renews his investigations into the history of boroughs and of the land laws, dealing especially with the legal ownership of the common waste in a borough like Cambridge, which was in no one's lordship. He establishes successfully, with the charm of style no other writer on English law possesses, that one can hardly find ownership in such land apart from the right of users; that the grant of the town of Cambridge by King John to its burgesses did not convey a property right in common or waste; that where aggregate ownership can be predicated one cannot distinguish common from corporate ownership; and that when, in 1803, the common arable fields of Cambridge were to be inclosed, there were really no owners of the balks and waste. As he sums up his thesis, "it is exceedingly hard to disengage those elements of property and rulership which are blent in the medieval *dominium*, and to unravel those strands of corporateness and commonness which are twined in the medieval *communitas*."

These lectures are more than usually full of striking and epigrammatic suggestions. Of the fiction — if, as he doubts, it is a fiction — of corporate ownership, the author truly says that we must not regard the fiction as the work of lawyers. "The lawyer is not the motive force, but the drag on the wheel, and must protest that the layman is (if you please) 'feigning' more rapidly than the law will allow. It is not the lawyer, but the man of business, who makes the mercantile firm into a person distinct from the sum of the partners. It is the layman who complains that the club cannot get its club-house without 'some lawyer's nonsense about trustees.'" "Law sees differences of kind where nature has made differences of degree." "Explorations in foreign climes may often tell us what to look for, but never what to find." "The man who is reaping his acre-strip will be able to enjoy some of the forthcoming bread and beer;

but not all of it; the king will come round for his share. The king has a right . . . call it governmental, call it proprietary, call it what you will, it ends in bread and beer; and that is where the cultivator's right ends."

This is good reading and good thinking. If any one deem it baseless conjecture, brilliantly expressed, let him look at the Appendix. This occupies more than half the book, and records a patient and exhaustive investigation into the history of the Cambridge fields and houses from Domesday to this century, with a few careful notes on the history and institutions of the borough. Professor Maitland's thought is clear and his style graceful because he has made his investigation and formed his conclusions before he has attempted to write his book. J. H. B.

A TREATISE ON THE LAW OF NEGLIGENCE. In two volumes. By Thomas G. Shearman and Amasa A. Redfield. Fifth edition. Substantially rewritten. New York: Baker, Voorhis, & Co. 1898. pp. ccii, 1,427.

This work requires no general introduction; and the reviewer's attention is now to be confined mainly to the changes and additions which appear in the fifth edition. Negligence so pervades the different branches of the law that any treatment of it must be rather disjointed. The same general principles, however, run through the subject; and by setting forth these principles in the first chapter and following them throughout, the authors avoid the error of making a mere collection of authorities. This preliminary is clearly and acutely written, although it is believed that complexity would have been avoided if, instead of three degrees of care, simply due care under all the circumstances had been used as a basis. Accuracy of definition avoids much of the danger caused by this complexity. But the preliminary statement of principle is little changed from the fourth edition, and hence is not directly under consideration.

From 1,429 pages of the fourth edition the two volumes have now reached a total of 1,629 pages. Some sections are altered, some entirely rewritten; and a very complete collection is made of cases decided, even during the last year, on almost every conceivable point or diversity. The late cases are, as a rule, carefully classified, although occasionally a case is not given its full significance. *Spade* v. *Lynn & Boston R. R. Co.*, 168 Mass. 285, for instance, — a case decided hardly more than twelve months ago, — is the first case cited as showing that damages cannot be recovered for mental suffering negligently caused; whereas in fact the case was the second in America to raise the doubtful question whether damages can be recovered for actual physical injury resulting from mental shock. The rule laid down by the court, that there can be no recovery for such an injury, by no means follows from the rule discussed in the text; yet this further question is not touched upon. This oversight, however, is exceptional, and the references are generally well made.

The chief alteration in the present edition is in the treatment of that exception to the fellow-servant rule known as the "Vice-Principal" doctrine. Such a doctrine, the authors state, has become generally accepted since the publication of the last edition. This statement at first reading is startling; and although it is modified by careful definition so that the word "vice-principal" assumes a meaning not generally attributed to it, the statement seems somewhat too broad. Starting with the opinion that such a rule ought to exist, the writers are inclined to take their point of